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ARIZONA ATTORNEY GENERAL

January 24, 1951

Op. No. 51-28 ✓

Yes
1/25/50

Mr. Robert Bohannon, Jr.
Commissioner, Arizona State
Department of Public Welfare
39 North Sixth Avenue
Phoenix, Arizona

Dear Mr. Bohannon:

We have before us a letter from Mr. Harry W. Hill, former Commissioner of the Arizona State Department of Public Welfare, dated January 15 in which he requested the opinion of this office on the following question:

"Could we under our law 70-108 (e), House Bill 32, draw upon aid to the blind funds for the payment of rent, the equipment and conduct of such an establishment which would render services to the blind of Arizona?"

It is our opinion that you could draw upon state aid to the blind funds for the purposes above set forth for the following reasons: Section 70-108 (e) provides that the State Department shall:

"(e) Develop such agencies as it may deem necessary for providing services to the blind including the prevention of blindness, the location of blind persons, medical services for eye conditions, vocational guidance and training of the blind, placement of blind persons in employment, instruction of the adult blind in their homes, and other social services for blind persons, or cooperate with such similar agencies already established."

The wording of this section is, we believe, clear and unambiguous, giving the State Department full authority to provide such services as "vocational guidance and training of the blind" and "other social services for blind persons", which would, in our opinion, be broad enough to include renting a building to be used for the storage of books and equipment of the blind and in helping to rehabilitate the blind.

Section 70-306 ACA 1939, as amended, reads as follows:

"Advisory committee.-- The state department shall appoint an advisory committee, of which the superintendent of the state school for the deaf and blind, and the superintendent of public health shall be ex officio members, which shall make a study and recommend to the state department a program of constructive service for the blind, with special emphasis upon prevention, cure and rehabilitation. Funds appropriated under this act may be utilized for the purpose of providing such constructive service."

This section specifically gives the State Department authority to use funds appropriated under this act for such purposes as heretofore requested when recommended by the State Advisory Committee. In view of this section just quoted, it may be wise to cooperate with the Advisory Committee in this matter and then, upon their recommendation, there could be no question whatsoever as to the using of state funds as requested in your letter.

Turning to the question of whether federal funds may be used for the purposes set out in your letter, the answer is a little more difficult. Section 1003a of the Social Security Laws of 1948, as amended, states that the Secretary of the Treasury shall pay to each state an amount to be determined under certain circumstances "which amount shall be used for paying the cost of administering the state plan or for aid to the blind or both, and for no other purpose". Section 1006 of this same act defines the term "aid to the blind" to mean "money payment to blind individuals who are needy". A strict construction of the federal statute would prohibit the using of the funds as asked unless the clause "the cost of administering the state plan" is broad enough to cover such expenditures. It is very doubtful in our mind whether the renting of a building for storing books and the other purposes set forth would be classified as

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administration expenses. It should of course be kept in mind that the overall tenor of the Federal Act is to successfully carry out the state plan as approved by the Federal Government, and since under our state plan we could use the funds as requested, possibly we could use the federal funds also.

As heretofore stated, it is our opinion that the state funds could be used for the purposes requested in your letter, but there is some doubt whether the federal funds could be so used.

Very truly yours,

FRED O. WILSON
Attorney General

KENT A. BLAKE
Assistant Attorney General

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